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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,700	04/05/2001	Peter Fuhrmann	DE 000060	4195
65913	7590	02/27/2007		
NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			EXAMINER SHAH, CHIRAG G	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 02/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/826,700

Applicant(s)

FUHRMANN ET AL.

Examiner

Chirag G. Shah

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 7 and 8.
Claim(s) rejected: 1-6 and 9.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


CHIRAG G. SHAH
PRIMARY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant provides additional arguments, which do not render the claims allowable after the prosecution on the merit is closed. Applicant continues to argue that the Office Action continues to base the rejection on a mistaken assertion that the flag bits of Chari correspond to pilot signals. Applicant alleges that the Examiner's interpretation to the flag bits as pilot signals is contrary to the plain meaning of the term pilot signal. Applicant further argues that the office action does not provide adequate evidence of motivation to suggest that the skilled artisan would modify the Chari reference with teachings from the Dean reference. Examiner respectfully disagrees and redirects Applicant the MPEP 2111. As stated in the MPEP 2111 and the case law *In re Hyatt*, 211 R.3d 1367, 137254 USPQ2d 1664, 1667 (Fed. Cir. 2000), during patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. According to the specification on page 5, the pilot signal appears to be merely a control signal. Thus, the broadest reasonable interpretation of flag bits within a flag signal of Chari reference functions as control signal corresponding to the function of pilot signal in the specification and definition used in the Art. Examiner, further respectfully redirects Applicant to Chari reference (specifically col. 4, lines 22 to col. 5, lines 19) to further provide evidence as to why the flag bits within the flag signal of Chari corresponds to pilot signals. The beginning of flag bits is important since the star coupler senses when it is about to receive a message. This clearly suggests that the flag bit received in a flag signal with "1" provides a control signal functioning as pilot signal for the star couple to sense a control signal of receiving a message. The definition of a pilot signal in the art is a signal transmitted over a communication system for control or reference purposes. The flag bits within the flag signal is a control signal received at the star coupler for enabling the star coupler to sense that it is about to receive a message. Thus, Examiner respectfully deems that the flag bits with the flag signal of Chari corresponds to pilot signals and maintains that claims 1- 6 and 9 are unpatentable under 35 U.S.C 103(a) over Chari in view of Dean. Examiner respectfully provides clarity to the Applicant as to how the references suggest that the modification would be an improvement. Applicant agrees with the Examiner that Chari reference teaches the ability to detect collisions. Examiner now provides for clarification that the improvement of incorporating Dean's teachings into Chari's teaching would enable an improved ability to detect collisions by monitoring the signal level of the pilot signal on the transmission medium. Based on the response to the argument provides, claims 1-6 and 9 respectfully remain unpatentable. Claims 7 and 8 remains objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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